

REMARKSStatus of the Claims

Claims 1, 2, 6, 7, 10, 11, 14 and 15 are currently pending.

Claims 1 and 2 have been amended.

Claims 12 and 13 have been canceled herein.

Claims 14 and 15 have been added.

Claim Rejections – 35 U.S.C. 112

Claims 12 and 13 have been rejected under 35 U.S.C. 112, first and/or second paragraph. In view of the cancellation of claims 12 and 13 herein, these rejections are moot.

Claim Rejections - 35 U.S.C. § 102/103

Claims 1, 2 and 6 have been rejected under 35 U.S.C. 102(b) as anticipated by or in the alternative, as obvious over U.S. patent No. 5,538, 059 to Brayer. Reconsideration and withdrawal of the rejection are respectfully requested.

In support of the rejection, the Examiner has identified the rim flange supports 18 shown in Fig. 1 of the Brayer '059 patent as forming a lap-joint with the lower sidewall of a tire 10, with the void areas 24 molded into the radially innermost portion 18a of the rim flange supports 18 forming an oscillatory trace-line.

As amended herein, each of independent claims 1 and 2 calls for the edge of the one mix that is overlapped with the other mix to be of a reduced thickness relative to the maximum thickness of the one mix. This is the opposite of the Brayer '059 joint,

where the thickness of the rim flange supports 18 is greatest at the radially innermost edge portions 18a allegedly forming the lap joint. The Brayer '059 patent, therefore, does not anticipate either of amended independent claims 1 and 2 or dependent claim 6.

Furthermore, as the Brayer '059 patent explicitly teaches that the thickness of the rim flange supports 18 is to be at a maximum at the radially innermost portions 18a, so as to support the rim flange 22, it would have been directly contrary to the teaching of the Brayer '059 patent to reduce the thickness of the innermost portions 18a. Consequently, amended claim 1, 2 and 6 would not have been obvious over the Brayer '059 patent.

Claim Rejections – 35 U.S.C. 102

Claims 1, 2, 6, 7, 12, and 13 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,789,616 to Cuthbertson et al. or JP 53-146779 to Mitsubishi or JP 62-6801 to Bridgestone. Reconsideration and withdrawal of the rejection are respectfully requested.

In support of the rejection based on the Cuthbertson et al. '616 patent, the Examiner points to the edge 19 of the darker mix 10 shown in Figure 4 as constituting an “oscillating trace line in the plane of the joint”. Cuthbertson et al. specifically disclose, however, that the edge 19 is an “irregular line” representing the externally visible line of juncture between the dark stock 10 and the lighter stock 11 when the tire is removed from the mold 18. (Col. 3, lines 59-65) Such “irregular” or “uneven” line or edge 19 results from the uneven flow of the two stocks during the vulcanization or curing of the tire. (Col. 1, lines 25-30)

We submit, therefore, that the edge 19 of the Cuthbertson et al. '616 patent does not constitute an "oscillatory trace-line" as claimed by Applicant. The Applicant has defined the term "oscillatory trace-line" as being characterized by "an amplitude and a wavelength". (Specification, ¶ 0009) (This is fully consistent with the normal usage of the term "oscillate" or "oscillatory" defined in the American Heritage Dictionary, 3rd Edition: "To swing back and forth with a steady, uninterrupted rhythm.") Line 19 of Cuthbertson et al. is not so characterized, but rather is characterized by being irregular or uneven. For this reason alone, the Cuthbertson et al. '616 patent does not anticipate any of claims 1, 2, 6, and 7.

Still further, the Cuthbertson et al. '616 patent expressly teaches that the irregular edge 19 is undesirable and is to be eliminated so that the line of juncture between the two colored stocks is even and regular. (Col. 1, lines 22-24 and Col. 1, line 72 – Col. 2, line 3) To that end, the surface of the tire is buffed or ground down to remove the overlapped dark stock 10c, which "automatically forms an even, regular, and sharply defined externally visible line of juncture between the dark stock 10 and the lighter stock 11 substantially at the edge of the groove 13." (Col. 3, line 69 – Col. 4, line 3) Thus, a tire produced in accordance with the Cuthbertson et al. teaching does not contain even the irregular edge 19, let alone an oscillating trace-line as claimed by Applicant.

For the reasons stated above, the Cuthbertson '616 patent does not disclose a tire having a lap joint with an oscillatory trace-line edge as claimed by the Applicant. But even assuming, *arguendo*, that the irregular edge 19 of Cuthbertson et al.

is such an edge (which Applicant does not admit), the '616 patent still would not constitute an anticipation of the claimed invention. It is clear from the Cuthbertson et al. '616 patent that the edge 19 is unintended and results from the "necessarily uneven flow" of the two rubber stocks 10, 11 during vulcanization or curing of the tire (emphasis added). (Col. 1, lines 25 – 30) As the trace of the edge 19 is therefore likewise necessarily uneven or irregular, there is no assurance that an edge trace 19 would be obtained in any given case that would result in the improved lap joint structure and the attendant advantages of the claimed invention. The Cuthbertson et al. '616 disclosure of an intermediate tire structure having a lap joint with an irregular edge 19 is at most an accidental, unintended and unrecognized disclosure of the claimed invention. As such, it does not anticipate Applicant's invention. See, Tilghman v. Proctor, 102 US 707 (1881) ("If the . . . were accidentally and unwittingly produced, whilst the operators were in pursuit of other and different results, without exciting attention and without its even being known what was done or how it had been done, it would be absurd to say that this was an anticipation of . . . [the patentee's]. . . invention."

JP '779 to Mitsubishi has been cited in the Office Action as disclosing a lap joint between the different color rubbers 1 and 2 having an edge that ends in an oscillatory trace-line in the plane of the joint. We respectfully disagree.

Close inspection of JP '779, Figure 2 reveals that the rubber 2 is superimposed in its entirety on the rubber 1 and, along its upper edge, appears to extend into chevron-shaped notches in the rubber 1. The thickness of those portions of the rubber 2 extending into the notches in the rubber 1 relative to the thickness of the main

pattern of the rubber 2 is not apparent. There is, however, no disclosure or suggestion that the interlocking portions of the rubber 2 are less thick than the main portion of the rubber 2. Consequently, JP '779 does not anticipate any of claims 1, 2, 6, and 7, all of which call for the superimposed edge having an oscillatory trace-line to be of reduced thickness relative to the maximum thickness of the rubber mix carrying such edge.

In support of the rejection based on JP '801 to Bridgestone, the incisions 9 at the upper end of the tread 7 in Figs. 5 and 6 have been construed as forming a circumferentially extending oscillatory trace-line in the plane of the joint. Quite apart from whether the joint between the sidewall 6 and the tread 7, is a "lap joint" as that term is generally understood (which it is not), the JP '801 disclosure does not anticipate either independent claim 1 or independent claim 2 for the reasons, *inter alia*, (1) that the incisions 9 do not extend over the full thickness of the tread 7 whereby only a portion of the end of the tread facing the sidewall 6 has an oscillatory trace-line, and (2) that the edge of the tread 7 facing the sidewall 6 is not reduced in thickness relative to the maximum thickness of the tread 7. Hence, all of claims 1, 2, 6, and 7 are free of anticipation by the JP '801 reference.

Allowable Subject Matter

The allowance of claims 10 and 11 is respectfully acknowledged.

New Claims

New claims 14 and 15 have been added to claim advantageous features of the invention that have been disclosed but not previously claimed. Clear support for

these claims is found in paragraph 0006 of the specification. No new matter is introduced.

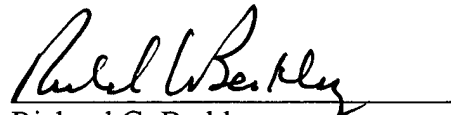
As claims 14 and 15 are dependent upon amended independent claims 1 and 2, respectively, they are patentable over the prior art of record for the reasons stated above.

Conclusion

In view of the foregoing, we respectfully submit that all pending claims define patentably over the prior art and are in condition for allowance.

The Commissioner is hereby authorized to charge payment of any additional fees required, including any fees due under 37 C.F.R. § 1.16 and/or 37 C.F.R. § 1.17, or to credit any overpayment to Deposit Account No. 02-4337. Duplicate copies of this sheet are enclosed.

Respectfully submitted,



Richard G. Berkley
Patent Office Reg. No. 25,465

BAKER BOTTS L.L.P.
30 Rockefeller Plaza
New York, New York 10112-4498

Attorneys for Applicant
(212) 408-2554

Dated: September 16, 2003